



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

IN REPLY REFER TO

Ser 009DB/252042

24 JAN 1979

MEMORANDUM FOR THE CHAIRMAN, DIRECTOR OF CENTRAL INTELLIGENCE
SECURITY COMMITTEE

Subj: Proposed DCID 1/14 appeals procedure

Ref: (a) SECOM-D-407 of 15 Nov 1978
(b) SECOM-D-423 of 22 Dec 1978

1. Reference (a) forwarded a recommended appeals procedure which is the proposed Annex to DCID 1/14. By reference (b) it was recommended that Legal Counsel review the proposed Annex B to DCID 1/14.

2. The office of Navy Judge Advocate General reviewed the proposed Annex B to DCID 1/14 and commented: "Under the current state of law there is no requirement under the rubric of 'due process' or otherwise, that any particular procedure be followed by the Government in determining who shall have access to sensitive compartmented information. Accordingly, any procedure devised for appealing such determinations would be strictly a matter of policy and should be so understood. Considered in that light, the proposed procedures are legally unobjectionable."

3. The following comments are submitted regarding the proposed Annex:

(a) The reference to the Privacy Act in paragraph 2 should be replaced with a broader reference to law in general. It is recommended that the last sentence be changed to read as follows: "This policy shall not be construed to require any agency or department to reveal more information than would otherwise be required by law." *OK*

(b) The scope of the proposed appeals procedures is described in terms different from those used to describe the scope of the basic directive. It is unclear whether a difference in scope is intended. Paragraph 3 should be either rewritten in language similar to that used in the basic directive or deleted as unnecessary.

best recommendation

Navy review completed.

(c) Only persons denied access on the basis of failure to meet the Personnel Security Standards of paragraph 5 of the basic directive may appeal, according to paragraph 2. According to paragraph 4, however, either failure to meet the Personnel Security Standards or failure to meet the minimum investigative requirements may result in finding of ineligibility. Without differentiating between the two possible bases, paragraph 5 requires that each SIO establish appeals procedures for any person who has been found ineligible for access. Paragraphs 2, 4, and 5 should be made consistent, either by adding failure to meet investigative requirements to paragraph 2 as grounds for appeal, or by expressly limiting, in paragraph 5, appeal procedures to cases of failure to meet Personnel Security Standards.

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alternative
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(d) Paragraph 5.b. provides that ineligible persons be advised of procedures whereby they may ascertain the "basis for the denial of access." If this phrase pertains only to providing such persons the parts of the personnel security investigation required by law to be released, it would be beneficial to so state. Any suggestion of a requirement to give the individual particularized reasons for the denial of access would thereby be clearly avoided.

dissage
not intended

4. It is also opined that the use of uniform procedures throughout the Intelligence Community in matters relating to access to sensitive compartmented information is highly desirable.



R. L. WELCH
Navy Member
DCI Security Committee

* better alternative would be to strike ^{follow in #2} words
"..., based on the Personnel Security Standards as
set forth in A 5 DCID" and substitute
words "in accordance with DCID 1/4"

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